

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS )  
FOR PERMIT NO.'S 34-07247 AND 34- )  
07410 IN THE NAME OF MITCHELL D. )  
SORENSEN AND APPLICATION NO. )  
34-07430 IN THE NAME OF TIMBER- )  
DOME CANAL COMPANY )

**ORDER DENYING  
PETITIONS FOR  
RECONSIDERATION**

On March 16, 1999, a recommended order was mailed to the parties to the above referenced matter. The following parties filed petitions seeking reconsideration in accordance with Section 67-5243(3), Idaho Code: Mitchell Sorensen, Charles D. Huggins, Matea McCray, Reva W. Walker, Lawrence R. Babcock on behalf of the Big Lost River Water Users Association, Marti L. Bridges on behalf of Idaho Rivers United, and Peter Ampe representing Idaho Department of Fish and Game. A response is included in this order to each of the issues to expedite the review of this matter because the department's "Rules of Procedure" allow these matters to be filed as exceptions after the petitions for reconsideration are resolved.

Reuben H. Babcock filed a letter with Director Karl J. Dreher questioning the meaning and intent of "mitigation" as provided in the recommended order. A response to this question is given to address a similar question in the petition filed by Mr. Huggins.

**A. Sorensen's Petition.**

1. Sorensen requests that approval of condition "d" for permit no. 34-07247 be amended to read as follows:

Prior to diversion of water under this permit, the permit holder shall install a measuring device, subject to the approval of the department, and will provide the watermaster with reasonable access to and suitable control of the diversion.

Response: Sorensen provided a letter from Doug Rosenkrance, Water District 34 Watermaster supporting his request. The letter and some information in Sorensen's petition are not part of the hearing record and can not be considered. Condition "d" is not impractical or unfair. The watermaster must be able to curtail any diversion in the district. Section 42-701, Idaho Code, includes the following language providing authority to require control devices:

- (1) ... Each device shall be of such construction that it can be locked and kept closed by the watermaster or other officer in charge, and shall also be of such construction as to regulate the flow of water at the diversion point.

Condition "d" does not imply that Sorensen has been or will be uncooperative with the watermaster or department field staff. The department has a responsibility to assure that permit conditions can be enforced. The condition should not be amended.

2. Sorensen also requests that the recommended order be amended to preserve application for permit No. 34-07410 for reprocessing if the Eastern Snake Plain Moratorium is lifted or revised.

Response: A letter dated November 17, 1997 from Mr. Kent Foster to the department includes the following opening paragraph:

We have been requested by Mr. Mitchell D. Sorensen to write to you regarding his three pending applications for permit, referenced above, and to formally request that processing be recommended and continued until a final decision is reached with respect to each. (Emphasis added.)

This request has led to the present contested case. All involved in this matter have expended time and resources expecting the matters to be fully and finally resolved. Retention of jurisdiction for an undetermined period of time could prevent the department's order from becoming final thereby impairing the opportunity for judicial review. The condition should not be amended.

**B. Charles D. Huggin's Petition.** Huggin's seeks reconsideration of the following: (Quotations from petitions are in italics.)

1. *Finding of Fact No. 34. Mr. Sorensen didn't testify that diversion of water into the Blaine Diversion for ten (10) of the past twenty (20) years was a LEGAL diversion practice.*

Response: This finding does not address the legality of water use. The purpose of this finding is to acknowledge that the practice has been on-going for many years.

2. *Finding of Fact No. 36. The Timberdome Canal Company DOES NOT OWN the Blaine Diversion Facility.*

Response: Finding of Fact No. 36 does not address ownership of the diversion. This finding acknowledges that because the facilities needed to divert and use the applied for water are in place, although future improvements may be made, the project is within the financial ability of the applicant.

3. *Finding of Fact No. 38. If the water, as diverted from the river to a canal, is reduced to decree water only, the river is relegated – from the Blaine Diversion and south – to a canal status only and this is certainly not in the public interest.*

Response: The recommended decision determines that maintenance of flows in the Big Lost River and Antelope Creek is in the local public interest. The recommended approval of application for permit No. 34-07430 allows use of water put into the Blaine Canal when an authorized agency uses the Blaine Canal to alleviate a flood emergency, but the permit holder cannot simply call for water from either Big Lost River or Antelope Creek. The concern raised by Huggins is addressed by the recommended decision.

4. *Finding of Fact No. 39. Diversion and use of water under application 34-07430 would cause injury to all rights diverted from the Blaine Diversion on down river as a result of lowering the watertable and not allowing water to rise in the two most southernly stretches of Big Lost River, as identified by IDWR.*

Response: The permit holder cannot call for water at the Blaine Diversion. Simply using water put into the canal during a flood fight will not further deplete the Big Lost River.

5. *Finding of Fact No. 41. Mr. Shaw's testimony using average of 100 to 200 cfs at the Arco gage is just that - an average – it reflects total yearly flows, and has no bearing on the irrigation seasons or on the necessary flows to maintain any semblance of a living and viable river.*

See response to item 3 & 4 above.

6. *Finding of Fact No. 43. Sixty (60) CFS measured for three consecutive days to acquiesce total control of said waters – to the applicant, the recharge committee, and the watermaster – to do with as they please – promotes nothing more than the destruction of the water rights of individual citizens; IT IS A VIOLATION OF THE TRUST HELD BY THE STATE OF IDAHO OVER THIS STATE'S WATER!*

Response: This finding of fact acknowledges Sorensen's request to have application for permit 34-07430 issued with the same conditions as the "Plan of Operation, Basin 34 Recharge, April 1997. This plan was written and agreed to by the parties to an earlier contested case, to which Huggins was a party, to resolve the protests against approval of two applications for permit to divert water for recharge. Although offered by the applicant, the protestants in the present proceeding have not agreed to these conditions as a basis for resolving the protests against application for permit 34-07430. The recommended conditions of approval for application for permit 34-07430 do not incorporate these provisions, but instead require that water can only be used when water is placed in the Blaine Canal by officials responsible to alleviate flooding.

7. *Conclusion of Law No. 20.* If the moratorium did not sunset in December of 1997, then HOW can this application even be considered – let alone become exempt – from trust water processing? Water supply is not adequate and injury is speculative because the applicants do not own the facilities at points of diversion and the cost of purchase and repair has not been demonstrated by the applicants to be available.

Response: This conclusion clearly states that application for permit no. 34-07430 does not require processing as trust water in accordance with Section 42-203C, Idaho Code, because no new consumptive use will occur. The trust water provisions are not applicable if the proposed use will not “significantly reduce the amount of trust water available to the holder of the water right used for power production...” (Section 42-203C, Idaho Code). Paragraphs 9 and 12 of the Eastern Snake Plain Area Moratorium (Referenced in Finding of Fact No. 9) allow processing of an application that “will have no effect on prior surface and ground water rights because of its location, insignificant consumption of water or mitigation provided by the applicant to offset injury to other rights.” Huggin’s concern for the diversion facilities is addressed in item 2 above.

8. *Conclusion of Law No. 24.* “*The hearing record documents that maintenance of flows in the Big Lost River and Antelope Creek is necessary to protect the public’s interest in important fish and wildlife habitat and water quality values. ....*” *that the use will have a positive impact by reducing diversion of ground water in Basin 34 and leakage from the Blaine Canal will recharge the aquifers in Basin 34. This apparent conflict can be resolved by approving the application for permit with conditions to allow diversion only when the flows in the Big Lost River and Antelope Creek are in excess of those needed to protect the public values.*” *HOW COULD SUCH ACTION PROTECT PUBLIC VALUES?*

Response: Huggins either does not think that the flows of Antelope Creek and Big Lost River ever exceed those required to maintain public values or does not agree that a permit can be conditioned to only allow use of flows in excess of those needed to protect public values. The recommended condition allowing use only when water is put into the Blaine Canal by officials acting during a flood emergency is adequate to protect the public interest.

9. Last, but not least: *This application has a provision for mitigation (yet to be defined). BUT, mitigation admits damage to others and such damage should not be intentionally inflicted! How can you mitigate injury by using water that legally belongs to those being injured?*

Response: The purpose of mitigation is to prevent injury that otherwise would occur. Adequate mitigation cannot be accomplished using water that legally belongs to those being injured. Mitigation must comply with the requirements of Rule 50 of the “Water Distribution Rules, Water District 34.”

C. **Matea McCray's Petition.** McCray seeks reconsideration of the following concerning application for permit No. 34-07430.

1. *Condition of Approval 3a.* This condition does not address futile call. Under this scenario, once Timberdome Canal begins to receive the 10,000 inches of Big Lost River (BLR) water, they can continue throughout the irrigation season even if there is no water in the BLR from the Moore diversion down as long as the flow at the 2-B gage is 300 cfs. All that would be required to continue use under Mr. Sorensen's request would be a "local futile call" similar to the one that IDWR has justified Mr. Rosenkrance delivering water to his son under a 1928 flood water right from Alder Creek.

Response: The condition referred to is a standard condition citing Idaho law that use of water is subject to all prior water rights. McCray's concern that a futile call determination could allow use throughout the irrigation season is unfounded because:

1. The recommended order (Condition 3e) allows use of water only when authorized officials put water into the Blaine Canal to alleviate flood conditions. The recommended order does not provide for the flow at the 2-B gage to be a direct consideration in whether or not water is used under the permit.

2. The recommended order (Condition 3f) does not allow the permit holder to call for diversion of water from the Big Lost River or Antelope Creek at any time, but only allows use, under the priority of the permit, when water is in the Blaine Canal.

3. When the flow of the Big Lost River is not sufficient to maintain flow downstream of the Moore Diversion, existing water rights with priorities earlier than application for permit No. 34-07430 would be entitled to divert and use the flow.

2. *Condition of Approval 3e.* *This condition allows for water to be diverted under emergency conditions in order to "prevent or reduce damage to public or private property". However, if the state emergency agency determines that diversion of waters from the BLR is necessary, they can require that every diversion off of the river be utilized to the maximum extent and all water users can be asked to irrigate to the maximum extent in order to protect these public and private properties. This way, all members of the "local public interest" will have the same opportunities as the Timberdome Canal Company to utilize this excess water in our own interest. Since this is the only scenario in this recommended order that truly represents the "local public interest", it is a fair and equitable way to resolve any future anticipated flood conditions.*

Response: Condition 3e does not require the public officials responding to a flood emergency only to use the Blaine Canal or even to use it in preference to other ways of reducing flood flows, including those suggested by McCray. This condition

allows Timberdome Canal Company to comply with Section 42-201, Idaho Code, which requires a water right before using the waters of the state.

3. Finding of Fact 12a. *200 CFS taken out of the river under the subject application using the Plan of Operation, Basin 34 Recharge, April 1997, as stated on Page 13, Item 43 would significantly reduce the flow of water in the BLR, potentially draining the river from the Moore Diversion down.*

Response: See the response to item 1 above.

4. Finding of Fact 12b. *Timberdome's claim of "recharge and conservation of Idaho's water is incorrect. One inch/acre of irrigation over 5000 acres will not recharge the groundwater table at depth's of 100+ feet.*

Response: McCray may be confusing flow rate (miners inches per acre) with volume (acre feet). One miners inch if available throughout the irrigation season of April 1 to November 1 listed in application for permit 34-07430 would yield approximately 8.4 acre feet. This amount exceeds the consumptive use needs of the highest use crops in Basin 34 thereby providing at least the possibility of recharge. Water will not be available for diversion for the entire irrigation season under permit 34-07430, if approved, but when water is available, a portion of the water conveyed in the canal and applied to the fields may be recharged.

5. Finding of Fact 12c. *The sole purpose of the applicant's application is to benefit them. Right now, these same individuals are in the process of trying to sell this very acreage to the Sawtooth Farms Corporation for a pig farm. It is estimated that the number of pigs will exceed 700,000.*

Response: Information concerning Sawtooth Farms Corporation is not part of the hearing record and can not be considered. The purpose of nearly all applications submitted by private parties is to benefit the applicant. Few applications could be approved if those that benefit the applicant cannot be determined to be in the local public interest. The rules governing the appropriation of water (Reference: Rule 45.01e of the Water Appropriation Rules, ADAPA 37.03.08) provide for balancing the impact of the proposed project on all relevant local factors, including the economy, employment, recreation, fish and wildlife habitat, air and water quality, and zoning requirements. The conditions of approval limiting use of water to only those times that water is in the Blaine Canal because of flood control operations provides the necessary balancing of these factors.

6. Finding of Fact 12d. *Timberdome Canal Co. does not own the Blaine Diversion. In addition, I anticipate that the next step these individuals will take will be to convince the BLRID to transfer ownership of the Blaine Diversion to this company. No one should be given a dam that would cost literally millions and millions of dollars to build today to any private interest or corporation.*

Response: Information concerning the possible transfer of ownership of the Blaine Diversion is not in the hearing record and can not be considered.

7. Finding of Fact 12e. *Rivers, trees, fish, wildlife and natural beauty all benefit Idaho's (and local) public interest. Filling Senior irrigation water rights, maintaining natural recharge channels that provide recharge for groundwater irrigation and domestic wells throughout Butte County benefit all citizens of the "local public interest".*

Response: These values are fully considered in the recommended order. Use of water in compliance with the recommended conditions of approval of application for permit 34-07430 will protect these values.

8. Finding of Fact 12f. *Irrigation to Era Flats, which is miles out of the irrigation district, does not conserve water for Idaho. Irrigation would only benefit a few landowners at the expense of the rest of Butte County and its citizens.*

Response: Era Flats is in Idaho and in Butte County. The irrigation district is not the only authorized user of water in the basin, although it does hold water rights senior to the priority of application for permit No. 34-07430 which must be protected. Maintaining and adding to jobs and the tax base for the local area are factors included in the hearing record which must be balanced against other local public interest factors.

9. Finding of Fact 12h. *A moratorium is still in effect. Why would IDWR consider applications that benefit only a few individuals at the expense of the remainder of the population?*

Response: The response to Huggin's Conclusion of Law No. 20 addresses the effect of the moratorium. Idaho's constitution and statutes provide for the appropriation of public water by private entities and include procedures for doing so (Reference: Section 42-201, Idaho Code, et. seq.). The applicants satisfied IDWR's requirements to recommence processing of the applications under the moratorium provisions.

10. Finding of Fact 28. *Mr. Sorenson (sic) has stated that he will comply with "mitigation requirements of Rule 50" However, he has never said how he proposes to do so.*

Response: McCray only protested against approval of application for permit No. 34-07430. Finding of Fact No. 28 does not refer to application for permit 34-07430. Mitigation is not a requirement under the recommended conditions of approval for this application.

11. Finding of Fact No. 27. *Illegal past practices should never be used as bases for justification of legalizing an illegal past historical practice. The fact that Mr. Sorensen has used water under 34-07247 in 10 of the past 20 years, many of these years while the river was dry and Senior water right owners were not getting their rights filled, is a perfect example of illegal past practices as a result of unethical individuals that fill water rights according to a "buddy system" rather than implementing the law of "first in time, first in right".*

Response: McCray only protested against approval of application for permit No. 34-07430, and her petition only seeks reconsideration of the recommended order relative to application for permit No. 34-07430. McCray does not accurately reference the substance of Finding of Fact No. 27 which indicates that the diversion and use of water sought under application for permit No. 34-07247 has been occurring since 1978. The relevance of the use of water to the consideration of whether application for permit No. 34-07430 should be approved or denied is reviewed in Conclusion of Law No. 10.

12. Finding of Fact No. 38. *Two of the three "public benefits" stated (Items B and C) are obviously not in the "local public interest" but are truly in the interest of the few landowners. Item a, which would be the only true "public interest" can be achieved utilizing all diversions from the river by maximizing those diversions under emergency conditions and encouraging all of the "local public" the opportunity of unlimited water usage during severe flood conditions. Obviously, reducing Timberdome's pumping costs for irrigation is not in my interest or the local public's interest.*

Response: The elements of the "local public interest" are perhaps subjective and depend somewhat on one's point of view. However, in this case, it is difficult to understand how McCray can argue that increasing ground water recharge or reducing the diversion and use of ground water in Basin 34 is not in the local public interest. The citizens of Big Lost River and throughout southern Idaho have a strong interest in enhancing and protecting ground water resources. Similarly, the conservation of energy is usually considered to be a desirable practice with many federal, state and local programs seeking to save various energy sources. McCray urges the unlimited usage of water by those not authorized to divert the extra water, while insisting that similar actions by the applicants should be punished.

**D. Big Lost Water Users Association Petition.** On behalf of the BLWUA, Lawrence R. Babcock seeks reconsideration of applications for permit 34-07247 and 34-07430 and asks for oral argument. The petition for reconsideration filed by Reva W. Walker addresses the same matters as the BLWUA petition.

1. *The Eastern Snake River Plain Moratorium prohibits the approval of these two applications.*

Response: See the response to Huggins in item 7 above.

2. *The reference to the 1968 U.S.G.S. 300,000 acre feet per year is taken out of context and is irrelevant.*

Response: The availability of unappropriated water is a relevant factor in determining whether an application for permit can be approved (Section 42-203A(5)), Idaho Code. The U.S.G.S. estimate of the amount of ground water exiting the basin is an important consideration.



3. *The Watermaster is obligated by law to deliver water according to the decree.*

Response: A watermaster, when appointed by the Director of IDWR, is charged with the distribution of water in accordance with the prior appropriation doctrine under the direction of the Director of IDWR. The provisions of relevant decrees provide a basis for determining the distribution of water. It is unclear which decree is being referred to in this comment, but proper distribution of water whether or not the present applications are approved relies upon the watermaster's performance of his duties.

4. *Application 34-07247 IS UPGRADIENT from the "A-line" or transition zones.*

Response: The location of the well sought in application for permit 34-07247 is upgradient from the A-line but is within the "transition zone" postulated by Steve Baker in his memorandum dated July 14, 1989. This memorandum is included in the department's file for application for permit No. 34-07247 and is a part of the hearing record.

5. *Applications 34-07247 and 34-07430 are subject to 42-203C.*

Response: Finding of Fact No. 22 addresses this issue. Based upon the provisions of the Snake River Water Rights Agreement, these applications do not require processing under 42-203C.

6. *Mr. Sorensen testified under oath that he had NO water to use as mitigation.*

Response: When required, mitigation is to be supplied in accordance with Rule 50 of the "Water Distribution Rules, Water District 34." When a call is made for mitigation water, the owner of a ground water right must identify adequate water to be supplied through the watermaster or curtail diversion of ground water for the period of the call.

7. *If these applications are granted, IDWR sanctions the illegal use of water to set a precedent.*

Response: Approval of an application authorizes the use of water in accordance with the permit conditions. The approval does not pass judgment on the legality of previous use of water by the applicant.

8. *Consumptive use of water will be greatly increased.*

Response: The hearing record indicates that the use of water under application for permit No. 34-07430 is to replace the source of water for lands already having a full supply of water. The record indicates that consumptive use will not be increased in either the Big Lost River basin or the Eastern Snake River Basin. The record indicates that the lands proposed to be irrigated under

application for permit 34-07247 have been irrigated since 1978. The consumptive use occurring since then will not be increased.

9. *All of these diversions are upgradient from the Arco gauging station.*

Response: The recommended order is in agreement with this statement.

10. *High water flows are needed to scour channels and fill surface rights at the Big Lost River Sinks.*

Response: The recommended agreement fully considers and protects these concerns.

**E. Idaho Rivers United's Petition.** Marti L. Bridges, on behalf of IRU, seeks reconsideration of the following:

1. *Finding of Fact No. 21 describes a "transition zone" within which wells can be operated without interference with surface water rights in the Big Lost River Basin if cased and sealed through the shallower ground water zones. No reference at to what expert provided this information or basis for this finding of fact is included in the recommended order. To protestants knowledge, no known case of casing and sealing a well in the Big Lost River Basin to prevent interference with surface water rights has occurred or been identified. This finding of fact is supposition and unverifiable.*

Response: Finding of Fact No. 21 is a "carryover" from the "Proposed Memorandum Decision and Order" issued on application for permit No. 34-7247 in 1989 described in Finding of Fact No. 3. The hearing officer took official notice of the department's files for this and the other contested applications. The proposed order and a memorandum report by Steven Baker providing a technical basis for the finding are included in the file.

2. *Mr. Sorenson's (sic) testimony is not necessarily a finding of fact. Many people testified throughout the hearing process, some as expert witnesses, others were not. For instance, Bob Martin, Idaho Dept. of Fish and Game provided substantial expert testimony regarding hydrology of the basin and public values, yet he is never cited in the recommended order. Are all of these peoples testimony findings of fact? You must clearly identify individual testimony as such and determine based on all the testimony what constitutes a finding of fact. This does not appear to have occurred.*

Response: A hearing officer in an administrative proceeding considers the testimony and other evidence in the hearing record, determines its relevance to the issues and gives each part of the evidence the appropriate weight in reaching a decision. The findings of fact included in the recommended order are those the hearing officer determined to be credible, relevant and necessary to the decision.

Findings of fact were not credited to specific protestants or their witnesses because a number of witnesses testified to the same public interest issues.

3. Finding of Fact No. 38 *provides inconclusive hydrologic findings regarding flood damage to private property, increases in groundwater supplied and increased aquifer recharge. Whose expertise are you relying on? Mr. Sorenson (sic) is not an expert witness on these issues.*

Response: Testimony by Sorensen and other witnesses is considered for credibility and relevance, then using the hearing officer's understanding of the facts and law, weighted to reach the recommended order. Although Sorensen was not accepted as an expert witness, his testimony was allowed into the record and can be considered, but with appropriate weight relative to other evidence.

4. Under "Conclusions of Law Concerning Application for Permit No. 34-07247" *Idaho Rivers United finds a fundamental misapplication of local public interest and the law. Under Item 10, page 16 there is not a showing of the local public interest. IDWR is rewarding the illegal use for nearly twenty years, clearly not in the local public interest. The local public interest identified in this case includes but is not limited to fish and wildlife values, maintenance of the aquifer, ensuring adequate streamflows, protection of water quality.*

*Mr. Sorensen's illegal use of water for more than twenty years is clearly in the private interest, not in the public interest as outlined in Shokal vs. Dunn. Furthermore, this is an internal contradiction for item 10 regarding the twenty years of use. Mr. Sorensen is illegal under the permit system of Idaho Code 42-201(2), the 1963 groundwater permitting statute. Item 11 is not in the local public interest nor made in good faith. Mr. Sorensen also failed to show he had adequate financial resources at hearing.*

Response: The local public interest includes any locally important factor. The values listed by Bridges are important and are considered and protected in the decision. The decision also considers other locally important factors including the economy of the local area, employment, and tax base. The department is required to consider these additional factors under Rule 45.01.e of the "Water Appropriation Rules, IDAPA 38.03.08. Bridge's concern for the use of water prior to issuance of the permit is considered fully in Conclusion of Law No. 10. Sorensen testified that the facilities necessary to divert and use water under application for permit No. 34-07247 exist and the project is operational (see Finding of Fact No. 25). The hearing record shows that the financial resources are adequate, the applicant in good faith intends to divert and use the water and the application is not for delay or speculative purposes (Reference: Rule 45.01.c. of the "Water Appropriation Rules").

5. *Regarding conditions of approval for permit no. 34-07430 Idaho Rivers United believes this permit should outright be denied. However, we want to support the conditions for Antelope Creek because they clearly provide several protections to the local public interest.*

Response: None required.

**F. Petition of Idaho Fish and Game.** Peter J. Ampe, on behalf of the Idaho Department of Fish and Game, seeks reconsideration for the following reasons:

1. *The Recommended Order, as part of the Order regarding Application No. 34-07430, should include the provisions from the "Plan of Operation, Basin 34 Recharge, April 1997" that Applicant stipulated the Application be conditioned on....*

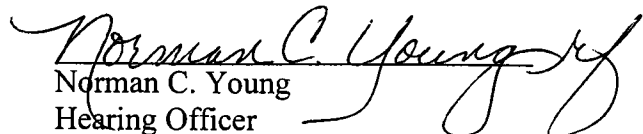
Response: Under the recommended conditions of approval, the permit holder cannot call for water to be diverted into the canal. Adding the condition requested by Ampe could be construed as allowing the permit holder to seek diversion into the canal based upon the flow at the Arco gauging station exceeding the referenced flow rate. The conditions of approval for application for permit No. 34-07430 allow use of water only when the responsible officials have put water into the Blaine Canal to alleviate flood conditions, unless the permit holder seeks a change in the permit condition in accordance with Item 3g of the recommended order.

2. *Protestant further requests the Order at 3(f) be modified with the additional requirement that a true and correct copy of the written direction and request required under this paragraph be served on the Department of Water Resources.*

Response: Item 3c. of the recommended conditions of approval for application for permit No. 343-07430 places use of water under the control of the watermaster of Water District 34. If the permit holder were requested to place water in the Blaine Canal by an official responsible for flood control, the watermaster will verify the request to assure compliance with permit conditions.

After review and consideration, the petitions for reconsideration and oral argument are **DENIED.**

Signed at Boise, Idaho this 24<sup>th</sup> day of April, 1999.

  
Norman C. Young  
Hearing Officer

## CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on the 21st day of April, 1999, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following.

Mitchell D Sorensen  
c/o Kent W Foster  
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HAHN & CRAPO  
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Kirby Jensen  
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Idaho Dept of Fish & Game  
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Deputy Attorney General  
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A handwritten signature in cursive script, appearing to read "Deborah Drew-Ellis", written over a horizontal line.

Deborah Drew-Ellis  
Administrative Assistant I, Legal Services